IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No.2882 of 2001

with

CIVIL APPLICATION No.10123 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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VENILAL BHANABHAI SOLANKI

Versus

NAZIRHUSSAIN GULAMHUSSAIN SOLANKI

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Appearance:

MR JB PARDIWALA for Appellant No. 1

MS VINITA S VINAYAK for Respondent No. 1

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CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 29/01/2002

ORAL JUDGEMENT

In this appeal filed under Section 96 of the Code of Civil Procedure, the appellant - original defendant

seeks to challenge the judgement and decree dated 15.09.2000 rendered in Spl.Civil Suit No.511 of 1992 by the learned 3rd Joint Civil Judge (S.D.), Bardoli by which the appellant was directed to pay Rs.40,000/= (Rupees Forty thousand only) together with the interest at the rate of 6% p.a. with cost to the respondent - original plaintiff.

2. The appeal is admitted vide order dated 14.09.2001. Today, Mr.J.B.Pardiwala, learned advocate for the appellant and Ms.Vinita S. Vinayak, learned advocate for the respondent jointly submitted that the matter has been settled between the parties amicably and they have decided to resolve the entire dispute by virtue of the said settlement. The respondent - plaintiff has agreed to accept Rs.47,000/= (Rupees Forty seven thousand only) towards the full and final settlement of the claim and, therefore, the decree which is impugned under the appeal may be modified as per the consent terms which they have filed today with their signatures.

3. I have read the consent terms and as per the said consent terms, the respondent - plaintiff has agreed to accept Rs.47,000/= (Rupees Forty seven thousand only) towards the full and final settlement of the claim. The appellant has deposited Rs.30,000/= (Rupees Thirty thousand only) in the Court of learned Civil Judge (S.D.), Bardoli by virtue of the order recorded by this Court in Civil Application No.3970 of 2001. The appellant undertakes to deposit the balance amount of Rs.17,000/= (Rupees Seventeen thousand only) on or before 11-02-2002 in the Court of learned Civil Judge (S.D.), Bardoli and on depositing the said amount, the respondent - plaintiff shall withdraw the entire amount of Rs.47,000/= (Rupees Forty seven thousand only) from the Court of learned 3rd Joint Civil Judge (S.D.), Bardoli, towards the full and final settlement.

4. In view of the aforesaid settlement, the decree which is impugned in this appeal is modified as per the consent terms. The appeal is disposed of before effective hearing. No order as to costs. Direct service is permitted. The consent terms shall be retained on record of this case.

Since the First Appeal is disposed of, no order in Civil Application.

(A.M.Kapadia, J)

'Bhavesh'